

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simone Cherry (T2)	Team: Team # 5	CCRB Case #: 200916563	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/16/2009 9:03 AM	Location of Incident: 1267 Jerome Avenue	Precinct: 44	18 Mo. SOL 4/16/2011	EO SOL 4/16/2011	
Date/Time CV Reported Fri, 10/23/2009 2:34 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/23/2009 2:34 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Jeannette Rivera	03561	933259	044 PCT
2. POM Curtis Chambers	03427	939299	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Elizabeth Guadalupe	14052	930281	044 PCT
2. SGT Francis Rodriguez	05143	904923	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Curtis Chambers	Abuse: Police Officer Curtis Chambers threatened § 87(2)(b) with the use of force.	
B.POF Jeannette Rivera	Force: Police Officer Jeannette Rivera struck § 87(2)(b) against a vehicle.	

Case Summary

On October 23, 2009, § 87(2)(b) called the CCRB to file her complaint. On October 16, 2009, at approximately 9:03 a.m., § 87(2)(b) drove, alone, in the vicinity of 1267 Jerome Avenue in the Bronx, when Police Officers Jeannette Rivera and Elizabeth Guadalupe initially stopped and issued her two traffic violation summonses for § 87(2)(b). At 9:44 a.m., Police Officer Jeannette Rivera arrested § 87(2)(b) for § 87(2)(b) at this same location. The following allegations resulted from these interactions:

- **Allegation A -Abuse of Authority: Police Officer Curtis Chambers threatened § 87(2)(b) with the use of force. § 87(2)(g)**
- **Allegation B -Force: Police Officer Rivera used physical against § 87(2)(b)**

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) who is a § 87(2)(b)-old Hispanic female, 5'4", 150 pounds, with dark brown hair and brown eyes, § 87(2)(b). She was interviewed at the CCRB on November 9, 2009 (encs. 7a-e).

CCRB Testimony

On October 16, 2009, at about 9:03 a.m., § 87(2)(b) reported that she was alone when she drove her vehicle and was stopped at 1267 Jerome Avenue in the Bronx by Police Officers Jeannette Rivera and Elizabeth Guadalupe. Police Officer Guadalupe wrote and issued her two traffic violation summonses for § 87(2)(b). While waiting for the summonses, § 87(2)(b) exited her vehicle to fix her stalled car battery. The officers, who were seated in their marked patrol car, told § 87(2)(b) via their loud speaker to reenter her vehicle and she complied. About ten to fifteen minutes later, Police Officers Rivera and Guadalupe approached § 87(2)(b) in their car and Police Officer Guadalupe handed § 87(2)(b) the summonses and both officers reentered their patrol car.

§ 87(2)(b) said that Police Officer Guadalupe's written name on the summons was not legible, so she exited her vehicle and approached the officers. She first asked Police Officer Rivera for her name and badge number and was provided with this information. She then asked Police Officer Guadalupe for this same information and Police Officer Guadalupe told her this information was written on the summons, prior to slowly driving away. During this time, Police Officer Rivera had also rolled up the car window. § 87(2)(b) proceeded to walk along the patrol car, headed to her own car, and said, "I can't believe you're rolling up the window when all I asked for was your names and badge numbers." Both officers suddenly stopped and exited the patrol car and approached § 87(2)(b) and accused her of touching their patrol car, which § 87(2)(b) denied doing. Both officers then grabbed § 87(2)(b)'s arms and Police Officer Rivera swung her around towards the car and as her right cheek was against the car hood rear

handcuffed her. § 87(2)(b) denied that she resisted being handcuffed. Subsequently, an unidentified male officer (identified via investigation as Police Officer Curtis Chambers) appeared and as he held a baton to the left side of her cheek asked, “Do you want your brains bashed in today?” § 87(2)(b) replied, “No sir, I simply just wanted their names and badge numbers.” This officer then left the location.

Police Officer Rivera placed § 87(2)(b) in the patrol car. As § 87(2)(b) entered the patrol car, Police Officer Rivera held her arm and spun her around towards the car and the left side of her cheek hit the patrol car. § 87(2)(b) sustained a bruise to her arm, but could not say how it occurred and did not know whether Police Officer Rivera did it intentionally and did not seek medical attention. Afterwards, Police Officer Rivera entered § 87(2)(b)'s vehicle and drove it across the street to the 44th Precinct stationhouse that was a few feet away from the arrest incident. § 87(2)(b) denied that she saw Police Officer Rivera search her vehicle, but said that Police Officer Rivera found an empty bottle of alcohol and told her that she found marijuana in her car, which she denied having or seeing. Police Officer Guadalupe, who was alone in the patrol car then drove § 87(2)(b) to the 44th Precinct stationhouse and fingerprinted her. Another unidentified police officer transported § 87(2)(b) to central booking that day. § 87(2)(b) has sought legal representation and plans on suing the NYPD.

NYPD Statements:

Subject Officer: Police Officer Jeannette Rivera

- *Police Officer Rivera, a § 87(2)(b)-year old Hispanic female, is 5’4”, 140 pounds, with blonde hair and hazel eyes.*
- *On October 16, 2009, Police Officer Rivera worked from 7:05 a.m. until 3:40 p.m. assigned to the 44th Precinct Sectors F and I. She was partnered with PO Elizabeth Guadalupe, in marked patrol car number 2605, dressed in uniform.*

Memo Book (encs. 8a-d)

Police Officer Jeannette Rivera noted in her memo book that at 9:00 a.m., she and PO Elizabeth Guadalupe stopped § 87(2)(b)'s car in front of 1267 Jerome Avenue. At 9:44 a.m., she arrested § 87(2)(b) for § 87(2)(b). At 9:47 a.m. Sergeant Rodriguez arrived at the location to verify § 87(2)(b)'s arrest for § 87(2)(b).

Police Officer Jeannette Rivera provided a statement to CCRB on December 8, 2009 (encs. 8e-g). On October 16, 2009, at approximately 9:00 a.m., Police Officers Jeannette Rivera and Elizabeth Guadalupe encountered § 87(2)(b) at a red traffic light. PO Rivera said she saw § 87(2)(b) change lanes and drive recklessly in front of them. They stopped her and told § 87(2)(b) that they saw her drive recklessly. § 87(2)(b) replied that she changed lanes because she was running late for work. PO Guadalupe asked § 87(2)(b) for her New York State Driver's license and car registration, which she eventually found and gave to them after looking for these documents for about ten minutes. PO Rivera said that she and PO Guadalupe returned to their patrol car and PO Guadalupe wrote the summonses for § 87(2)(b). § 87(2)(b) exited her vehicle and opened her car hood and stated that her car battery was not working. PO Rivera told § 87(2)(b) via a microphone to remain in her vehicle until they were finished writing the summonses. PO Guadalupe completed writing the summonses and PO Rivera and PO Guadalupe walked up to § 87(2)(b) who was seated in her vehicle. PO Guadalupe handed § 87(2)(b) the summonses and returned to their patrol car.

PO Rivera and PO Guadalupe were seated in the patrol car when § 87(2)(b) walked up to them and asked for her and PO Guadalupe's names. PO Rivera said she provided § 87(2)(b) with her name and badge number and told her that PO Guadalupe's name was written on the bottom of the summonses. PO Guadalupe also told § 87(2)(b) her name prior to driving away. PO Rivera also said that as they drove past § 87(2)(b) § 87(2)(b) reached her hands through the patrol car and grabbed her right arm. PO Rivera was not certain of § 87(2)(b)'s intentions but believe she may have done this to prevent them from leaving. PO Rivera exited the patrol car and grabbed § 87(2)(b)'s arm and attempted to handcuff her. § 87(2)(b) resisted being handcuffed and flailed her arms in the air. Another officer, named Police Officer Curtis Chambers, who was dressed in civilian clothes suddenly appeared and assisted them with handcuffing § 87(2)(b). PO Chambers only grabbed § 87(2)(b)'s arms and PO Rivera did not see him with a baton or heard him ask § 87(2)(b) whether she wanted her head bashed in. PO Rivera said after she had rear handcuffed § 87(2)(b) that PO Chambers left the location. She placed § 87(2)(b) who had calmed down, in the patrol car. PO Rivera denied that she saw § 87(2)(b) struck her face against a vehicle or heard her complain about sustaining any injury, specifically a bruise to her arm.

PO Guadalupe drove § 87(2)(b) to the 44th Precinct stationhouse while she dealt with § 87(2)(b)'s stalled vehicle. Someone from an auto shop nearby assisted her with jumpstarting the stalled car, which she later drove and parked near the stationhouse and later this same day a relative of § 87(2)(b) arrived at the 44th Precinct to retrieve the vehicle. PO Rivera also said when she sat in § 87(2)(b)'s vehicle that she saw § 87(2)(b)'s large pocketbook with her identification and summonses on top of it and decided to bring this bag to her. PO Rivera opened the pocketbook and saw a ziplock clear plastic bag that contained a bottle of alcohol and one glassine bag of marijuana and smoking tobacco in it. PO Rivera radioed for a sergeant and Sergeant Rodriguez arrived at the location to verify § 87(2)(b)'s arrest. PO Rivera also said she tested and vouchered the marijuana.

Subject Officer: Police Officer Curtis Chambers

- *Police Officer Curtis Chambers, a § 87(2)(b) year old white male, is six feet, 225 pounds, with brown hair and blue eye.*
- *On October 16, 2009, Police Officer Chambers worked an extended tour from 11:15 p.m. until 9:20 a.m. He worked alone and was dressed in civilian clothes and was off duty at time of incident.*

Memo Book (encs. 10a-c)

Police Officer Chambers had no memo book entries regarding § 87(2)(b)'s incident.

Police Officer Chambers provided a statement to CCRB on December 15, 2009 (encs. 10d-e). On October 16, 2009, between 9:25 a.m.-9:30 a.m., Police Officer Chambers work shift had just ended and he exited the 44th Precinct stationhouse and walked to his personal vehicle about to head home. As he waited for his engine to warm up, he looked across the street and saw Police Officers Elizabeth Guadalupe and Jeannette Rivera involved with a car stop with § 87(2)(b). PO Chambers said he initially assumed they were assisting § 87(2)(b) because her car hood was up. PO Chambers looked back, about a minute later, and saw § 87(2)(b) exit her vehicle and walk to the patrol car. § 87(2)(b) leaned into the patrol car and Police Officers Guadalupe and Rivera both exited their vehicle and attempted to handcuff § 87(2)(b). § 87(2)(b) resisted by flailing her arms. PO Chambers said he drove up to Police Officers Guadalupe and Rivera to assist them. He exited his vehicle and retrieved his straight baton from his Jeep and approached § 87(2)(b). PO Chambers grabbed § 87(2)(b)'s upper arm and placed the baton in front of her face and said, "Stop resisting or I'm going to smack you in the head." PO Chambers also said when he made this statement to § 87(2)(b) that he was pretending that he was going to hit § 87(2)(b) with his baton. Eventually, § 87(2)(b) stopped flailing her arms and was handcuffed. PO Chambers denied that he told § 87(2)(b) "Do you want your brains bashed in today" or that he heard her reply, "No, sir, I simply just want their names and badge numbers."

Witness Officer: Police Officer Elizabeth Guadalupe

- *Police Officer Elizabeth Guadalupe, a § 87(2)(b)-year-old Hispanic female, is 5'4", 140 pounds, with brown hair and eyes.*
- *On October 16, 2009, Police Officer Guadalupe worked from 7:05 a.m. until 3:40 p.m., assigned to patrol Sectors F and I, in marked patrol car number 2605, dressed in uniform. She was partnered with PO Jeanette Rivera.*

Memo Book (encs. 9a-c)

PO Elizabeth Guadalupe noted in her memo book that at 9:44 a.m., Police Officer Jeanette Rivera arrested § 87(2)(b).

CCRB Statement

Police Officer Guadalupe provided a statement to CCRB on December 15, 2009 (encs. 9d-f). Sometime prior to § 87(2)(b)'s arrest Police Officer Guadalupe said she had initially issued her two traffic violation summonses for § 87(2)(b). PO Guadalupe gave § 87(2)(b) the summonses and said she was not happy with receiving them. PO Guadalupe and PO Rivera returned to their patrol car and § 87(2)(b).

§ 87(2)(b) knocked on their car window with a pen asking for their names and shield numbers, which they provided. PO Guadalupe also said that § 87(2)(b) had threatened to file a civilian complaint against them. As they drove away, PO Guadalupe does not recall if § 87(2)(b) had reached through the car window and touched PO Rivera, but saw PO Rivera flinch away from the window. At this point, both she and PO Rivera exited the patrol car and placed § 87(2)(b) under arrest for disobeying a lawful order and disorderly conduct. They attempted to handcuff § 87(2)(b) and she resisted by flailing her arms. PO Guadalupe said that both she and PO Rivera requested police assistance and subsequently, PO Curtis Chambers arrived. PO Chambers assisted them with handcuffing § 87(2)(b) but she does not recall if he grabbed § 87(2)(b) arm or held a baton to her face and denied that she heard him threaten to bash § 87(2)(b) in the head with his baton. PO Guadalupe also denied that she heard § 87(2)(b) complain about sustaining any injury, specifically a bruise to her arm or face. Prior to them arriving at the precinct, PO Guadalupe said that PO Rivera had entered § 87(2)(b)'s vehicle, removed her open pocketbook and showed her a bottle of alcohol and bag of marijuana in it. Sergeant Francis Rodriguez later arrived and verified the arrest. PO Guadalupe also said that she and PO Rivera drove § 87(2)(b) to the 44th Precinct stationhouse and she does not know what happened to § 87(2)(b)'s vehicle but mentioned that PO Rivera would have dealt with the matter.

Witness Officer: Sergeant Francis Rodriguez

- *Sergeant Francis Rodriguez, is a forty-one year old Hispanic male, 5'10", 170 pounds, with brown hair and brown eyes.*
- *On October 16, 2009, Sergeant Rodriguez worked from 6:55 a.m. until 3:52 p.m. as the patrol supervisor, assigned to the 44th Precinct, dressed in uniform. He partnered with PO Chris Acker, in marked patrol car number 4805.*

Memo book (encs.11a-b)

Sergeant Francis Rodriguez noted in his memo book that at 9:47 a.m., he visited sector 44F at East 169th Street and Jerome Avenue in the Bronx. This sector was assigned to POF Rivera and POF Guadalupe who had arrested § 87(2)(b) for § 87(2)(b). One glassine envelope contained alleged marijuana.

Sergeant Francis Rodriguez provided a statement to CCRB on December 22, 2009 (encs. 11c-d). At approximately 9:47 a.m., Sergeant Francis Rodriguez stated he was on routine patrol when he received a radio call from Police Officers Rivera and Guadalupe and responded to East 169th Street and Jerome Avenue in the Bronx. When Sergeant Rodriguez arrived at the location ### ##### was already in handcuffs so he did not witness any allegation.

Summons/Arrest for Incident and Disposition

[[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)], § 87(2)(g)

Status of Civil Proceedings (enc. 24A)

§ 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 5, 2010 with regard to the incident.

Civilian Criminal History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History (enc.5)

This is the first CCRB complaint filed by § 87(2)(b)

Subject Officer(s) CCRB History (encs. 3, 4a-b)

Police Officer Jeannette Rivera has been a member of the service for six years and there are three substantiated CCRB cases against her that resulted in discipline: Case 200703011-Abuse-Strip-searched the Board recommended charges but the NYPD did not prosecute. Case 200710245- Abuse-Strip-searched the Board recommended command discipline but the NYPD did not prosecute and Other Misconduct the NYPD recommended command discipline-B. Case 200808781 Abuse-Questioned the NYPD recommended command discipline.

Police Officer Curtis Chambers has been a member of the service for four years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officers

§ 87(2)(b) identified the subject officer, Police Officer Jeanette Rivera by her name, which she obtained from this officer. Police Officer Curtis Chambers confirmed his involvement with § 87(2)(b) during the incident.

Investigative Findings and Recommendations

Allegation Not Pled

- § 87(2)(g)

Allegation A: Police Officer Curtis Chambers threatened § 87(2)(b) with the use of force

Police Officer Curtis Chambers admitted that he told § 87(2)(b) “Stop resisting or I’m going to smack you in the head.” He said he made this statement while assisting Police Officers Jeannette Rivera and Elizabeth Guadalupe with handcuffing § 87(2)(b) who resisted being handcuffed by flailing her arms. Police Officer Chambers said he grabbed § 87(2)(b)s upper arm and placed his straight baton in front of her face and made the statement.

According to Patrol Guide procedure 203-11 attachment (encs.1a-b), all uniformed members are of service are responsible and accountable for the proper use of force under the appropriate circumstances. § 87(2)(g)

§ 87(2)(g) See OATH case of Police Department v
Briscoe, OATH Index No. 1328/00 (Sept. 29, 2000). § 87(2)(g)

Allegation B: Police Officer Jeannette Rivera struck § 87(2)(b) against a
vehicle

§ 87(2)(b) alleged that after she was handcuffed Police Officer Rivera held her arm and spun her around towards the patrol car, and as she was about to enter the patrol car, the left side of her cheek hit the car. § 87(2)(b) did not sustain any injury or seek medical attention and did not say if this was intentionally done.

According to Patrol Guide procedure 203-11 attachment (encs. 1a-b), all uniformed members are of service are responsible and accountable for the proper use of force under the appropriate circumstances. Police Officer Jeannette Rivera admitted that she rear handcuffed § 87(2)(b) and that § 87(2)(b) voluntarily entered the patrol car, but denied that she used the force alleged by her.

§ 87(2)(g)

Team: FIVE

Investigator: _____ Simone Cherry _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date